

AGREEMENT

This 'Agreement' is agreed and entered at New Delhi on the Effective Date by and between:

- **MakeMyTrip (India) Private Limited**, a company registered under the Companies Act, 1956, with its principal office at 19th Floor, Building No. 5, DLF Cyber City, Gurgaon, 122002 (hereinafter referred to as 'MMT') including its successors and assigns thereof as first party;
- **Ibibo Group Private Limited**, a company registered under the Companies Act, 1956, with its principal office at 19th Floor, Building No. 5, DLF Cyber City, Gurgaon, 122002 (hereinafter referred to as 'IBIBO') including its successors and assignees thereof, and
- The Hotel, as detailed further in Annexure 1.

MMT, IBIBO & the Hotel are individually referred to as 'Party' and collectively as 'Parties'. MMT and IBIBO referred collectively as 'Facilitators'.

PREAMBLE:

- A.** Facilitators are engaged in the business of providing travel and tourism related services.
- B.** The Hotel is in the business of providing accommodation services and has represented to Facilitators that it has the necessary legal, technical, and business setup to procure the service of arranging hotel accommodation from Facilitators as defined in this Agreement.
- C.** Facilitators and the Hotel desire to enter into this Agreement to bind themselves with their mutual obligations as prescribed hereunder, and this Agreement supersedes all prior understanding of the Parties with respect to their dealings with each other on the Scope of Services.

NOW THEREFORE THE PARTIES HERETO AGREE TO THIS AGREEMENT TERMS AS FOLLOWS:

1. SCOPE OF SERVICES

1.1. The Hotel will provide access to the required information with respect to the availability of its rooms, the services and amenities, and their rates to Facilitators and its Affiliates on a direct connection (API Linking), through a third party channel manager or a similar interface, extranet or reserve certain rooms for booking through Facilitators as may be decided between the Parties. This will enable the Facilitators and their Affiliates to host the availability of the Hotel's rooms on their websites and other online and offline sales channels (including mobile applications or browsers, branch offices, b2b partners etc.). Accordingly, all benefits, rights and obligations under the Agreement will apply to each Affiliate as if the Affiliate is a contracting party to the Agreement. It is hereby clarified that an Affiliate can issue Hotel vouchers (confirming the booking), issue invoice(s) to the Hotel for its commission, receive booking confirmation and collect accommodation charges (inclusive of all fees and taxes) on behalf of the Hotel. However, the invoice capturing the tax details for hotel accommodation services shall, in all cases, be generated and issued by Hotel directly on the customer for the gross amount collected by the Facilitators towards the booking. Facilitators are not required to issue an 'invoice' (capturing tax details) for the Hotel accommodation services on customers under any circumstances unless law specifically requires Facilitators to do so. Further, the tax charged in respect of Hotel accommodation services shall be discharged by the Hotel in all cases where Hotel is registered under the respective tax laws. For the purpose of this Agreement, Affiliates includes persons which are Controlled by, or Control, or under common Control of a person in whose context the word Affiliate is being determined. Control means ability to, directly or indirectly, direct or cause the direction of the management or policies of a person, whether through the ownership of voting securities, by contract or otherwise.

1.2. The Hotel shall ensure the availability of information with respect to the rooms on real-time basis and further ensure that at no point of time the room is available for booking with some other online travel agents (OTAs) but not with the Facilitators. The Hotel shall be solely responsible for rates made available on extranet or any other medium owned or managed by Facilitators. Facilitators shall have no responsibility with respect to the rates provided by the Hotel.

- 1.3.** The Hotel shall maintain rate parity, and room availability parity between Facilitators and other travel agents, other sales channels of third parties and the Hotel itself.
- 1.4.** Bookings of the Hotel rooms against the customer reservations communicated by the Facilitators will be purely at the choice of the customers and will be as per the user agreement available at the website of MMT ('MMT User Agreement') and IBIBO ('IBIBO User Agreement'), together MMT User Agreement and IBIBO User Agreement will be referred as 'User Agreement'. The User Agreement forms an integral part of this Agreement and is incorporated in this Agreement by reference. The Parties agree to deliver their obligations accordingly.
- 1.5.** MMT and IBIBO would be rendering services as a facilitator arranging hotel accommodation services between hotel and customers. Accordingly, the Hotel only would be responsible for provision of hotel accommodation services to the customers booking Hotel rooms through Facilitators. The Hotel shall provide services to the customers booking through Facilitators as per best industry practice. The room rate applicable for any customer making the booking through Facilitators shall be as per the Hotel's policies depending upon the seasonality, supply and demand factors.
- 1.6.** Hotel agrees and undertakes that it shall at all times act in good faith and shall not in any way commit acts prejudicial to the interest of Facilitators or the customers booking through Facilitators including without limitation, acts which in sole discretion of the Facilitators may amount to defrauding Facilitators or their customers such as misuse or abuse of any benefits, accruals or offers made available by Facilitators, in violation of the applicable laws etc.
- 1.7.** At all times, the Facilitators will be liable to pay to the Hotel only for those bookings which are booked by the customers through Facilitators for genuine utilization by themselves and for which room rate is collected from the customers on behalf of the Hotel. The Hotel will not engage in fictitious booking of its rooms for the purpose of unduly enriching itself with the promotional schemes of Facilitators.
- 1.8.** The amount refundable to the customers in case of cancellation of booking shall be as per the cancellation policy as informed by the Hotel to Facilitators from time to time. No cancellation retention shall be payable to the Hotel in case of cancellation of reservations due to Force Majeure events. The cancellation policy provided in respect of bookings made through Facilitators shall be no less favourable than the policy provided by the Hotel in respect of booking through any other third party or in its own website.
- 1.9.** During the Term of the Agreement, the Parties may agree on the Commercial Terms (which include the commission, validity period of such Terms, and any amendments thereof) from time to time over email or in writing. All such emails and written documents will be deemed to be part of and bound by the terms of this Agreement.
- 1.10.** The Hotel permits Facilitators to translate the Hotel information into any regional language and use the same for its business purposes. Such translated data will be the exclusive property of the Facilitators.
- 1.11.** This Agreement will be valid subject to the Hotel submitting the KYC documents as may be required by the Facilitators prior to the signing of the Agreement, and from time to time.
- 1.12.** All descriptions of the services and amenities at Hotel's website should be consistent with the information as provided by Hotel pursuant to this Agreement, and all such services and amenities should be actually provided for by the Hotel. In case the specified amenities and services are not provided by the Hotel, the Hotel shall be solely responsible to the customer for any complaint in respect of the same.
- 1.13.** Any adverse change(s) in the booking terms as provided by the Hotel, including the cancellation policy, refund policy etc. shall only be applicable with prospective effect for bookings made after the implementation of the revised terms.
- 1.14.** Facilitators will solicit reviews of the Hotel from customers or guests who have completed a stay at the Hotel room booked through Facilitators, and may publish these comments and scores on the websites of each Facilitator and their Affiliates. Facilitators will use their best efforts to monitor guest reviews with respect to certain reasonable criteria of genuineness and proper language, and further reserves the right to remove these reviews. Facilitators will not enter into any discussion, negotiation or correspondence with the Hotel in respect of the content or consequences of the publication or distribution of the guest reviews. However, the Facilitators will use all reasonable methods to procure removal from the website(s) of any comments about the Hotel which have been already posted provided that the Hotel can show by reasonable evidence that such comments are false or are not a genuine

expression of that guest's opinion. The Hotel acknowledges that Facilitators are the distributor and not the creators of such comments. All liability for the content of any such comments is excluded to the extent permitted by law.

1.15. Facilitators will provide the customer information to the Hotel 'as is' in the form and content provided by the customer. Facilitators do not warrant the accuracy or completeness of such information as that is provided by a third person outside the control of Facilitators. Such information shall always be the property of the Facilitators. The Hotel agrees that it shall not solicit reservations directly from those customers booked through Facilitators, and shall not market the Hotel to those persons directly.

1.16. The Hotel permits Facilitators to display the name, brand name, logo, trademark and any other information as supplied by the Hotel to enable Facilitators to fulfil its rights and obligations under this Agreement. If the Hotel is offering any promotional sales of rooms at discounted prices, the same discounted prices shall be offered to customer booking through Facilitators.

1.17. The Hotel shall resolve all customer grievances directly with the customer, including those grievances related to quality of rooms, rates, services etc. Facilitators may at its discretion operate a customer service facility to resolve the grievances of the customers over phone and by coordinating with the Hotel, but in all cases the ultimately responsibility remains with the Hotel to resolve the grievances.

2. COMMERCIAL TERMS

2.1 The room night availability and booking facility provided by the Hotel will be on commission basis. The Hotel will pay certain commission to each Facilitator (for all the bookings made by the customers through Facilitators) on the gross room rate (including any applicable government taxes and Goods and Services Tax) notified by the Hotel to Facilitators as the listing price of the Hotel room. For the avoidance of doubt, it is clarified that the Facilitators do not have the right to alter the Sell Rate notified by the Hotel. Such commission may be set-off by the Facilitators in their payment to the Hotel, or may be paid separately by the Hotel as the Parties may mutually agree in writing. Accordingly, Facilitators would issue a tax invoice for the commission amount along with applicable taxes, if any. The commission payable to Facilitators will be agreed by Parties from time to time. The Hotel would be required to raise an invoice on the customer for the gross amount and discharge tax liability accordingly.

2.2 If the Hotel is offering any promotional sales of room nights at discounted prices compared to usual Sell Rate, the same discounted prices shall be offered to the customers booking through Facilitators.

2.3 Facilitators may offer certain promotions over the room nights of the Hotel to the customers, except on any specific dates duly informed by the Hotel to Facilitators at least five working days in advance. Irrespective of the discount offered by Facilitators, the Hotel would be required to raise an invoice on the customer for the gross amount and discharge tax liability accordingly.

2.4 Notwithstanding anything mentioned above, Facilitators at their own discretion can charge the customer booking through the respective Facilitator, a service fee for its services, over and above the Sell Rate. For the service fee (if any) charged, Facilitators shall issue a tax invoice on the customers only for the amount of service fee along with applicable taxes and Hotel will not have any responsibility to raise an invoice on customer towards such service fee.

3. TERM AND TERMINATION

3.1. The Agreement shall commence from the Effective Date and be continue to be valid unless terminated by either Party with 30 (thirty) days' notice to the other Party anytime during the term of this Agreement.

3.2. In addition, either Party may terminate this Agreement with immediate notice for material breach of the terms of this Agreement by the other Party or for any statutory reasons; in case of a breach by a Party capable of being cured, the other Party may terminate this Agreement with immediate notice if the former Party fails to cure the breach within 15 (fifteen) days' from the date the latter Party notifies the breach. However the accrued obligations of the Parties prior to the termination will continue to be fulfilled post termination.

4. INDEMNITY

4.1 Once a booking has been confirmed to the customer booking through Facilitators pursuant to this Agreement, the Hotel will honour the reservations without fail. In the extreme cases where accommodating the customer in the Hotel is not possible for any reason what so ever, the Hotel will provide customer with an alternate accommodation in same or higher category hotel in the same or nearest locality at no extra cost, including transfers. In addition, Hotel agrees that in the event that the customer is not satisfied with such alternate accommodation provided by the Hotel and Facilitators are required to provide refund to the customer, then the Hotel shall pay an amount equal to double the per room night cost to Facilitators for each instance of such default.

4.2 Each Party agrees to indemnify and hold the other Party, its officers, directors, employees, successors, and assigns harmless against all losses, damages, liabilities, costs or expenses of whatever form or nature, including, without limitation, attorney's fees and expenses and other costs of legal defence whether direct or indirect, that they, or any of them, may sustain or incur as a result of any acts or omissions of the former Party or any of its directors, officers, employees, or agents, including, but not limited to, (1) breach of any of the provisions/obligations of this Agreement (2) negligence, misconduct or other tortuous conduct, or (3) misrepresentations made herein.

4.3 Neither Party shall be liable to the other for any direct, indirect, incidental, punitive, special or consequential damages or losses (including without limitation loss of profit or revenue etc.), whether under contract or in tort, and even if the other party had been advised of the possibility of such damage or loss. Notwithstanding anything to the contrary in this contract, in case of any dispute (including third party claims) the maximum liability of Facilitators under this Agreement is limited to the Commission paid by the Hotel to Facilitators during the period of 12 months preceding the date of dispute for that specific property or unit of the Hotel which is the subject of the dispute.

5. REPRESENTATIONS AND WARRANTIES

5.1 Each Party represents and warrants that:

5.1.1 It has full legal right, power and authority to carry on its business and to enter into this Agreement and perform all of its obligations, terms and conditions hereunder; and

5.1.2 Neither the execution nor delivery of this Agreement, nor the fulfilment nor compliance with the terms and provisions hereof, will conflict with, or result in a breach of terms, conditions or provisions of, or constitute a default under, or result in any violation of its charter documents or by laws, if any, or any agreement, restrictions, instrument, order, judgment, decree, statute, law, rule or regulation to which it is subject, or require any consent, approval or other action by any court, tribunal, administrative or governmental body.

5.2 The Hotel additionally represents that:

5.2.1 It is operating in compliance with all the applicable laws, regulations and statues, and it has the requisite licenses in place to operate its business.

5.2.3 It has full right, title and interest in and to all trade names, trademarks, service marks, logos, symbols, proprietary marks and other intellectual property marks ("IPR") which it provides to Facilitators, for use related to the Services, and that any IPR provided by a Party will not infringe the marks of any third party; Hotel shall permit the usage of its logo, trademarks, symbols, service mark etc. to enable Facilitators to fulfil its rights and obligations under this Agreement which shall be upon the specific permission availed by Facilitators in writing from Hotel.

5.2.4 It shall at no time charge any extra charges, taxes and/or levies (except where there is a statutory change in tax rate or any legislation governing taxation laws), over and above what has been specified at the time of booking. Hotel shall only charge the guest for any additional facility used by the guest which was not included while making the booking.

5.2.5 The information provided by it to Facilitators in any form and manner whatsoever, is accurate, complete and true representation of the details of the Hotel.

6. TAXES

6.1 Pursuant to this Agreement each Party, with respect to the services rendered in its individual capacity, would be solely responsible for the compliance of all applicable laws including but not limited to legislations regarding Goods and Services Tax (GST), central, state or local levies with respect to payment of tax, duties, levies, charges, cess, etc. Thus, the tax collected by Facilitators as part of the

room charges shall be remitted to the Hotel and it shall be sole responsibility of the Hotel to deposit the same to the concerned authority under the applicable law. Further, Facilitators shall not be liable to deposit such amount unless specifically mandated by law. In cases where the law requires Facilitators to deposit tax, the Hotel shall not be eligible to collect any GST from the customer through Facilitators. Further, Facilitators shall deduct/ collect/ withhold any tax to be levied under applicable tax laws, in such manner as may be prescribed, from the amount payable to the Hotel (i.e. the amount collected from the customer and to be remitted to the Hotel) and shall furnish appropriate documentation for the same.

6.2 All payments for commission made by the Hotel to Facilitators under the Agreement would be subject to withholding tax as per the law applicable on the date of payment. The Party withholding the tax would be responsible for providing appropriate proof, certificate, documents, etc. to enable the other Party claim the benefit of the same.

6.3 The Parties would be responsible for their own tax assessments, audits, inquires, etc. and would keep the other Party indemnified from any additional tax demand arising out of the same.

6.4 The Hotel undertakes to provide Facilitators with necessary documents, as may be required by law from time to time, to prove the Hotel's compliance with the applicable tax laws with respect to this Agreement including its obligations to deposit the necessary taxes with the authorities. Any interest, penalties or recoveries from Facilitators by any authority on account of default by the Hotel will be solely borne by the Hotel on its own account.

6.5 The Hotel authorizes Facilitators to collect the taxes (under the applicable laws) on behalf of the Hotel from the customers at the time of booking and remit the same to the Hotel for depositing the same with the government.

7. CONFIDENTIALITY

7.1 The Parties agree that any information (including any written, tangible and/ or intangible information) exchanged between or disclosed by either Party to the other Party from time to time, which by its inherent nature is confidential or is specifically mentioned as confidential, shall be the confidential information of the said Party and either Party shall not disclose the same to the public without taking the prior written approval of the other Party.

7.2 The obligation of confidentiality contained under this Clause shall not apply to information which:

7.2.1 At the time of the disclosure is or already was in the possession of the other Party as evidenced by written documents; or

7.2.2 At the time of the disclosure was already in the public domain as evidenced by written documents; or

7.2.3 After the disclosure became generally available to the public through no fault of the other Party; or

7.2.4 Was subsequently disclosed to the other Party by a third party having a lawful right to disclose the information and being under no obligation of confidentiality with regard to a Party; or

7.2.5 Has been developed by the other Party independently on its own and without reliance on any information provided by the disclosing Party; or

7.2.6 Is required to be disclosed by a Party to comply with applicable laws or governmental regulations, provided that the said Party provides prior written notice of such disclosure to the other Party and takes reasonable and lawful actions to minimize the extent of such disclosure.

8. GENERAL

8.1 The Hotel will be hosted as per Clause 1 at the sole discretion of Facilitators; the Hotel shall not have any rights to insist specific performance by Facilitators.

8.2 This Agreement is governed by the laws of India and Parties agree to the exclusive jurisdiction of courts of New Delhi, India.

8.3 The waiver of any right in this Agreement shall be in writing and signed by the Party against whom enforcement is sought, and shall not be a waiver of any other right in this Agreement.

8.4 Neither Party shall assign this Agreement to any other person without the other Party's prior written consent.

8.5 Any notices under this Agreement by a Party to the other Party shall be issued to the respective Party's address mentioned in Annexure A.

8.6 Modifications to this Agreement shall be done by (1) means of a separate amendment as an agreement signed by both Parties, or (2) by way of a mutually accepted email, or (3) by means of a revised link sent by Facilitators and acceptance of the same by the Hotel, or (4) by means of a written communication via email or otherwise by Facilitators and deemed acceptance by means of conduct by the Hotel.

8.7 Unless as otherwise specified in the Agreement, neither Party shall be responsible for any failure to comply with its respective obligations under this Agreement, where such failure or delay is due to events of Force Majeure (as defined below) provided that the affected Party notifies the non-affected Party within reasonable time of the commencement of the event of Force Majeure. Force Majeure events shall mean any circumstances beyond the reasonable control of Parties like war, riot, flood, fire, Acts of God, epidemic, explosion, disease, earthquake, hijacking, sabotage, crime.

8.8 This Agreement and Annexure A, if any, constitute the complete and exclusive statement of the Agreement between the Parties, and supersedes all proposals, and all other prior or contemporaneous communications between the Parties relating to the subject matter hereof, whether written or oral.

8.9 The Parties acknowledge and agree that the relationship between them is solely that of principal and agent (to the extent of collection of payment on behalf of the hotel for further remitting to the same), operating independently and nothing in this Agreement is to be construed as employer/employee, franchise/franchisee, partners, joint ventures, co-owners, or otherwise participants in joint or common undertaking. Facilitators shall be responsible for collecting the concerned amount from the customer as an intermediary in the fiduciary capacity, which amount shall be duly remitted to the Hotel as per the arrangement contained in this Agreement.

8.10 This Agreement may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

8.11 This Agreement shall be signed by the Hotel through entering its details, and agreeing to these terms and conditions with Facilitators by registering and accepting the online agreement. Accordingly, this Agreement is legally valid between the Parties by virtue of their online acceptance.

Annexure A

Effective Date of Agreement	Date of registration of Hotel on Ingoibibo (in.goibibo.com)
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